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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

UNITED STATES OF AMERICA,	CR 14-37-M-DLC
vs.	
STANLEY FLEMING,	<u>OFFER OF PROOF</u>
Defendant.	

THE CHARGE

The defendant, Stanley Fleming, is charged in an indictment with Health Care Fraud (18 U.S.C. § 1347).

PLEA AGREEMENT

The defendant will enter a voluntary plea of guilty to the Indictment.

ELEMENTS

In order for the defendant to be found guilty of Health Care Fraud, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly executed, or attempted to execute, a scheme or artifice to defraud a health-care benefit program, or to obtain money or property owned by, or under the custody or control of, a health-care benefit program by means of false or fraudulent pretenses, representations, or promises.

Second, the false or fraudulent pretenses, representations, or promises related to a material fact.

Third, The Defendant acted willfully and intended to defraud.

Fourth, the Defendant did so in connection with the delivery of or payment for health-care benefits, items, or services.

PENALTY

The defendant is subject to ten years imprisonment, a \$250,000 fine, and three years supervised release.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the government would prove the following:

Fleming is a licensed clinical professional counselor living in Ronan, Montana. For the past 19 years, he has provided services for the Ronan school district, including determining whether children are eligible for an Individual Education Program under the Individuals with Disabilities Education Act.

In July 2009, the Medicaid Surveillance and Utilization Review Unit (SURS) received a complaint that Fleming had billed for services provided to a child who had never seen Fleming. SURS and Blue Cross Blue Shield conducted a review of Fleming's billings activities. In response to SURS' inquiry, Fleming stated that his computer hard drive and personal digital assistant were compromised by a computer virus in March 2008. According to Fleming, the virus caused him to lose all

records documenting services rendered before that date.

Fleming later produced records for some of the claims consisting of hand-written notes written on index-card-size sheets of paper. Some of the records lacked a patient name and a date of service. SURS reviewed Fleming's claims from August 2006 to August 2009 and contacted Fleming's purported patients to determine if they actually received the services billed to Medicaid. In a sample of 65 patients (35 of which were successfully contacted), 20 denied receiving services from Fleming.

U.S. Attorney's Office Health Care Investigative Analyst Karl Krieger performed a further investigation through Medicaid records, school district records, and telephone interviews of students or their parents. Krieger's investigation revealed that Fleming billed Medicaid for students in cases when an Individual Education Program did not recommend counseling. In many cases, the student or his or her guardian denied the counseling session took place. Students were also billed for counseling services during months when school was not in session. Fleming also billed Medicaid for counseling services on the

same day and for the same student that the Ronan school district billed Medicaid.

On May 30, 2014, Krieger and FBI Special Agent Ingrid Nelson interviewed Fleming at the FBI Resident Agency office in Missoula. Fleming admitted he fraudulently billed Medicaid for students from the Ronan school district. Fleming stated that he billed Medicaid for counseling services he did not provide, services for which he had already been compensated for by the school district, and billing for children he had never met. Fleming also stated he committed similar fraudulent billing in the Dayton school district.

PLEA OFFERS

The United States presented any and all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the court represents, in the government's view, the most

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favorable offer extended to the defendant. *See Missouri v. Frye*, 132 S. Ct. 1399 (2012).

DATED this 28th day of October, 2014.

MICHAEL W. COTTER
United States Attorney

/s/ Chad C. Spraker
Assistant U.S. Attorney
Attorney for Plaintiff